

Senate Bill 306

By: Senators Hamrick of the 30th and Harp of the 29th

AS PASSED

AN ACT

To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to change provisions relating to duty of the clerk of superior court to record certain transactions and duties as to lien book; to change notice and filing provisions with respect to certain liens; to change a provision relating to the effect of release or covenant not to sue on hospitals and other medical provider liens; to change a provision relating to the effect of this part on a settlement or release entered into before entry into a hospital, nursing home, or traumatic burn care medical facility; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by striking subparagraph (a)(1)(C) of Code Section 44-2-2, relating to the duty of the clerk of the superior court to record certain transactions, and inserting in lieu thereof the following:

"(C) Liens of all kinds; and"

SECTION 2.

Said title is further amended by striking Code Section 44-14-471, relating to filing of verified statement, and inserting in lieu thereof the following:

"44-14-471.

(a) In order to perfect the lien provided for in Code Section 44-14-470, the operator of the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice:

(1) Shall, not less than 15 days prior to the date of filing the statement required under paragraph (2) of this subsection, provide written notice to the patient and, to the best of the claimant's knowledge, the persons, firms, corporations, and their insurers claimed by the injured person or the legal representative of the injured person to be liable for damages arising from the injuries and shall include in such notice a statement that the lien

is not a lien against the patient or any other property or assets of the patient and is not evidence of the patient's failure to pay a debt. Such notice shall be sent to all such persons and entities by first-class and certified mail or statutory overnight delivery, return receipt requested; and

(2) Shall file in the office of the clerk of the superior court of the county in which the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice is located and in the county wherein the patient resides, if a resident of this state, a verified statement setting forth the name and address of the patient as it appears on the records of the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice; the name and location of the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice and the name and address of the operator thereof; the dates of admission and discharge of the patient therefrom or with respect to a physician practice, the dates of treatment; and the amount claimed to be due for the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice care, which statement must be filed within the following time period:

(A) If the statement is filed by a hospital, nursing home, or provider of traumatic burn care medical practice, then the statement shall be filed within 75 days after the person has been discharged from the facility; or

(B) If the statement is filed by a physician practice, then the statement shall be filed within 90 days after the person first sought treatment from the physician practice for the injury.

(b) The filing of the claim or lien shall be notice thereof to all persons, firms, or corporations liable for the damages, whether or not they received the written notice provided for in this Code section. The failure to perfect such lien by timely complying with the notice and filing provisions of paragraphs (1) and (2) of subsection (a) of this Code section shall invalidate such lien, except as to any person, firm, or corporation liable for the damages, which receives prior to the date of any release, covenant not to bring an action, or settlement, actual notice of a notice and filed statement made under subsection (a) of this Code section, via hand delivery, certified mail, return receipt requested, or statutory overnight delivery with confirmation of receipt."

SECTION 3.

Said title is further amended by striking Code Section 44-14-472, relating to duties of the clerk of the superior court as to lien book, and inserting in lieu thereof the following:

"44-14-472.

The clerk of the superior court shall endorse the date and hour of filing on the statement filed pursuant to Code Section 44-14-471; and, at the expense of the county, the clerk shall provide a lien book with a proper index in which the clerk shall enter the date and hour of the filing; the names and addresses of the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice, the operators thereof, and the patient; and the amount claimed. The information shall be recorded in the name of the patient. The clerk shall receive a fee as required by subparagraph (f)(1)(A) of Code Section 15-6-77 as his or her fee for such filing."

SECTION 4.

Said title is further amended by striking Code Section 44-14-473, relating to the effect of a covenant not to bring an action, and inserting in lieu thereof the following:

"44-14-473.

(a) No release of the cause or causes of action or of any judgment thereon or any covenant not to bring an action thereon shall be valid or effectual against the lien created by Code Section 44-14-470 unless the holder thereof shall join therein or execute a release of the lien; and the claimant or assignee of the lien may enforce the lien by an action against the person, firm, or corporation liable for the damages or such person, firm, or corporation's insurer. If the claimant prevails in the action, the court may allow reasonable attorney's fees. The action shall be commenced against the person liable for the damages or such person's insurer within one year after the date the liability is finally determined by a settlement, by a release, by a covenant not to bring an action, or by the judgment of a court of competent jurisdiction.

(b) No release or covenant not to bring an action which is made before or after the patient was discharged from the hospital, nursing home, or provider of traumatic burn care medical practice or, with respect to a physician practice, which is made after the patient first sought treatment from the physician practice for the injuries shall be effective against the lien perfected in accordance with Code Section 44-4-471, if such lien is perfected prior to the date of the release, covenant not to bring an action, or settlement unless consented to by the lien claimant; provided, however, that any person, firm, or corporation which consummates a settlement, release, or covenant not to bring an action with the person to whom hospital, nursing home, physician practice, or traumatic burn care medical practice care, treatment, or services were furnished and which first procures from the injured party an affidavit as

prescribed in subsection (c) of this Code section shall not be bound or otherwise affected by the lien except as provided in subsection (c) of this Code section, regardless of when the settlement, release, or covenant not to bring an action was consummated.

(c) The affidavit shall affirm:

(1) That all hospital, nursing home, physician practice, or provider of traumatic burn care medical practice bills incurred for treatment for the injuries for which a settlement is made have been fully paid; and

(2) The county of residence of such affiant, if a resident of this state;

provided, however, that the person taking the affidavit shall not be protected thereby where the affidavit alleges the county of the affiant's residence and the lien of the claimant is at such time on file in the office of the clerk of the superior court of the county and is recorded in the name of the patient as it appears in the affidavit."

SECTION 5.

Said title is further amended by striking Code Section 44-14-475, relating to the effect of this part on a settlement before entry into a hospital, nursing home, or traumatic burn care medical facility, and inserting in lieu thereof the following:

"44-14-475.

No settlement or release entered into or executed prior to the entry of the injured party into the hospital, nursing home, or facility which provides traumatic burn care medical practice or prior to the time the patient first sought treatment from the physician practice for the injuries shall be affected by or subject to the terms of this part."

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.